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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/714,510   | 11/14/2003  | Thomas M. Sauter     | KCOS121897          | 9834             |
| 26380 7590 04/09/2008<br>CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC<br>1420 FIFTH AVENUE<br>SUITE 2800<br>SEATTLE, WA 98101-2347 |             |                      |                     |                  |
| EXAMINER   |             |                      |                     |                  |
| VANAMAN, FRANK BENNETT   |             |                      |                     |                  |
| ART UNIT   |             | PAPER NUMBER         |                     |                  |
| 3618   |             |                      |                     |                  |
| MAIL DATE  |             | DELIVERY MODE        |                     |                  |
| 04/09/2008   |             | PAPER                |                     |                  |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/714,510

**Applicant(s)**

SAUTER, THOMAS M.

**Examiner**

Frank B. Vanaman

**Art Unit**

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17 and 19-30 is/are pending in the application.
- 4a) Of the above claim(s) 4-14, 21 and 22 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-26 and 29 is/are allowed.
- 6) ☒ Claim(s) 1, 17, 19, 23, 27, 28 and 30 is/are rejected.
- 7) ☒ Claim(s) 2, 3, 15, 16, 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **Continued Examination Under 37 CFR 1.114**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on Feb. 29, 2008 has been entered.

### **Status of Claims**

2. Claims 1-17, 19-30 are pending, with claim 18 having been canceled. Claims 4-14, 21 and 22 are withdrawn from consideration as being drawn to a non-elected species.

### **Claim Rejections - 35 USC § 102**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 17, 19, 23, 27, 28 and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Couderc et al. (US PGPub 2001/0009320). Couderc et al. teach a binding strap device for use with a binding system designed to hold a boot (2, phantom) on a snowboard (3, 9) and having a base-plate (4, 7), the strap element (figure 7) including toe and ankle straps (103, 102) each having a movable end (left most end of 103, 102, figure 7) each end being connected to one or more linkages (in this case, at least element 106), wherein the movable ends are allowed to travel, and a strap-tension-producing fastener (104, 105) which is located on an opposite end of one of the toe and/or heel strap portions (at 101), and wherein the operation of the fastener to tension one or the other straps causes a tension to be produced in the other of the straps, and wherein operation of the fastener to release tension in one of the straps causes tension to be released in that strap and the other of the straps, wherein travel of the movable end associated with one or the other of the straps causes motion of the

linkage (106) connected to the other strap, the linkage constituting one or more cables (see paragraphs 0073-0077).

The examiner notes that the alternative strap portion taught by the illustration of figure 7 is understood to be anticipated by Couderc et al. as usable with the base-plate and boot as shown in figures 1-3, as such, while figure 7 fails to explicitly illustrate the boot and base-plate, it is understood that Couderc et al. anticipate a binding device which includes both the alternative strap as well as the boot and base-plate.

#### **Allowable Subject Matter**

5. Claims 24-26 and 29 are allowed.
6. Claims 2, 3, 15, 16 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### **Response to Comments**

7. Applicant's comments, filed with the request for continued examination and amendment have been carefully considered. As regards the reference to Laughlin, as previously applied, the examiner agrees that the Laughlin reference does not appear to anticipate the claims as currently amended. Note the newly cited reference to Couderc et al., now applied against claims 1, 17, 19, 23, 27, 28 and 30 in direct response to applicant's amendment. The examiner notes that a majority of applicant's independent claims remain quite broad, and remain subject to anticipation rejections in the instant office action much as they have been similarly subject to anticipation rejections in the previous five office actions.

As the examiner noted in the first office action, mailed Feb. 14, 2006, many of the difficulties encountered in the prosecution of patent applications may be alleviated if each applicant includes, at the soonest possible time, claims varying from the broadest to which he or she believes he or she is entitled to the most detailed that he or she is willing to accept.

Applicant may possibly desire to construe that an anticipation rejection of a claim may be taken as a sign that the claim may have been too broadly drafted to sustain patentability in view of the prior art. The instant office action is the sixth consecutive

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office action in this application which presents anticipation rejections of at least some of applicant's independent claims.

**Conclusion**

8. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A response to this action should be mailed to:

Mail Stop \_\_\_\_\_  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

**F. VANAMAN**  
**Primary Examiner**  
**Art Unit 3618**

/Frank B Vanaman/  
Primary Examiner, Art Unit 3618